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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,864	03/11/2004	Evan Pennell	00216-661001 / Case 8131	6604

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EXAMINER

CHOI, STEPHEN

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/798,864

Applicant(s)

PENNEL ET AL.

Examiner

Stephen Choi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 2,4,6,14-23,25,26 and 34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,7-13,24 and 27-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/5/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 5, 2006 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 3, 5, 9, 12-13, 24, 27-29, and 32-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Rozenkranc (US 6,276,061).

Rozenkranc discloses all the recited elements of the invention including a housing having a primary guard (e.g., at 6) and a primary cap (e.g., at 5), one or more primary shaving blades (e.g., 3), a rear wall having a rear exterior surface extending along substantially the entire length of the trimming blade and defining a trimming cap

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(e.g., Figure 3a, unlabeled), a trimming blade having a trimming cutting edge (e.g., 4), and a trimming guard (e.g., Figure 3a, unlabeled). Regarding claim 24, alignment surfaces (e.g., surfaces on an unlabeled blade holder at 4). Regarding claims 27-28, a shaving aid strip (e.g., 5). Regarding claims 32-33, e.g., Figure 1.

4. Claims 1, 3, 5, 9-10, 12-13, 24, 27-30, and 32-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Brown, Jr. (US 2004/0055156).

Brown discloses all the recited elements of the invention including a housing having a primary guard (e.g. 26), a primary cap (e.g. 29), and one or more primary shaving blades (e.g. 7-9), a rear wall having a rear exterior surface extending downward to a terminating surface and extending along substantially the entire length of a trimming blade (e.g., see Fig. 2, 36) and defining a trimming cap (e.g., 34). Regarding claim 3, e.g., at 4. Regarding claim 5, a trimming guard (e.g., 33). Regarding claims 27-28, a strip (e.g., paragraph 24). Regarding claim 30, e.g., see paragraph 20.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3, 5, 9, 12-13, 24, 27-29, and 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rozenkranc.

In alternative, if it is argued that Rozenkranc does not teach the rear exterior surface extending along substantially the entire length of the trimming blade, it would

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have been obvious to one having ordinary skill in the art at the time the invention was made to provide the rear exterior surface extending along substantially the entire length of the trimming blade on the device of Rozenkranc since the examiner takes Official Notice on providing a rear exterior surface extending along substantially the entire length of a blade or blades as old and well known in the art for the purpose of providing a blade supporting body. Apprille, Carson, and Metcalf show examples of a commercially available multi-blade shaving apparatus with a rear exterior surface extending along substantially the entire length of blades.

7. Claims 7-8, 10-11, and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rozenkranc in view of Applicant's Admitted Prior Art (hereafter AAPA).

Regarding claims 7-8, the device or the modified device of Rozenkranc discloses the invention substantially as claimed except for one or more skin protection structures between the trimming guard and the trimming cutting edge. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ one or more skin protection structures between the trimming guard and the trimming cutting edge as taught by AAPA on the device or the modified device of Rozenkranc in order to protect the user's skin. Regarding claims 10-11, the device or the modified device of Rozenkranc fails to disclose the rear wall being a separate component made of metal. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a separate piece made of metal as taught by AAPA on the device or the modified device of Rozenkranc

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in order provide an attachable component. Regarding claims 30-31, the device or the modified device of Rozenkranc fails to disclose four or more primary shaving blades or five or more primary shaving blades. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ four or five or more primary blades as taught by AAPA on the device or the modified device of Rozenkranc in order to enhance shaving action. It is noted that the common knowledge or well-known in the art statement of the previous office action of August 12, 2005 has been taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. See MPEP § 2144.03.

8. Claims 7-8, 11, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of AAPA.

Regarding claims 7-8, Brown discloses the invention substantially as claimed except for one or more skin protection structures between the trimming guard and the trimming cutting edge. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ one or more skin protection structures between the trimming guard and the trimming cutting edge as taught by AAPA on the device of Brown in order to protect the user's skin. Regarding claim 11, Brown fails to disclose the rear wall made of metal. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the rear wall made of metal as taught by AAPA on the device Brown since selecting a known material on the basis of its suitability for the intended use is a matter

of obvious design choice. Regarding claim 31, Brown fails to disclose five or more primary shaving blades. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ five or more primary blades as taught by AAPA on the device of Brown in order to enhance shaving action. It is noted that the common knowledge or well-known in the art statement of the previous office action of August 12, 2005 has been taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. See MPEP § 2144.03.

Response to Arguments

9. Applicant's arguments filed April 5, 2006 have been fully considered but they are not persuasive.

Applicants contend that Rozenkranc does not disclose the rear exterior surface extending along substantially the entire length of the trimming blade since lack of cross-hatching in Figure 1 of Rozenkranc indicates that housing material is not adjacent to the blade where the cross-section is taken but instead is somewhere further along the length of the blade. Applicants further contend that Rozenkranc does not disclose a trimming assembly as one unitary piece attached to the back of the housing. In addition, applicants request documentary evidence to support the examiner's assertion of the office action mailed on August 12, 2005.

The examiner respectfully disagrees. Applicants appear to indicate that the rear exterior surface is discontinuous along the blade. Although Rozenkranc fails to show cross-hatching on Figure 1, Rozenkranc teaches a plastic body, which the trimming

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blade is mounted therewithin in the same slot as are the shaving blades, is substantially the same as those being used in the commercially available multi-blade shaving apparatus except for the body being slightly lengthened to accommodate the trimming blade. Thus, it is the examiner's position that the specification along with Figures in the reference to Rozenkranc teaches the rear exterior surface extending along substantially the entire length of the trimming blade. However, the examiner has added the rejection under 35 U.S.C. 103 (a) to further support the rejection. Moreover, Rozenkranc does teach the trimming assembly including the trimming blade and the trimming guard as claimed as one unitary piece as well as unitary with other elements integrally attached to the back of the housing. Moreover, MPEP §2144.03 (C) states that "If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate.". Applicants fail to traverse the examiner's assertion on the reply filed November 16, 2005, the examiner has clearly indicated that the common knowledge or well-known in the art statement is taken to be admitted prior art on the office action mailed on February 6, 2006.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Choi whose telephone number is 571-272-4504. The examiner can normally be reached on Monday-Thursday 9:00-5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



SC
23 June 2006

STEPHEN CHOI
PRIMARY EXAMINER